

Remarks

The Office Action mailed September 22, 2005 has been carefully considered. After such consideration, Claims 1-54 have been amended. Claims 1-26; 27; 28-52; and 53-54 remain in the case with none of the claims being allowed.

The Examiner rejected Claims 1-54 of the application under 35 U.S.C. § 101 as being directed to non-statutory subject matter asserting that the claimed inventions are not within the technological arts. However, according to recent case law, there is no “technological arts” test to determine patent eligible subject matter under § 101. See *Ex parte Lundgren*, Appeal No. 2003-2088 (Bd. Pat. App. & Int. Sept. 28, 2005).

The Examiner also asserts that Applicant’s Claims 1-54 do not produce a useful, tangible, and concrete result. This contention, however, ignores that the claimed scheduling systems are very useful for those wishing to schedule a plurality of time-dependent tasks. Furthermore, the Examiner views Applicant’s system as “software *per se*.” Applicant’s inventions, however, are not limited to purely software embodiments. Therefore, it is respectfully submitted that the rejections of claims 1-54 of the application under 35 U.S.C. § 101 as being directed to non-statutory subject matter are not applicable in view of *Ex parte Lundgren* and should be withdrawn.

Claims 1-26 and 28-54 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,319,781 to Syswerda (“Syswerda”) in view of U.S. Patent No. 5,241,465 to Oba et al. (“Oba”). Claim 27 was rejected as obvious over Oba in view of Syswerda. These rejections are respectfully traversed as failing to present a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, a combination of prior art references must teach or suggest all of the claim limitations. MPEP 2143. Applicant’s Claims 1 and 27 describe, in combination with other claimed elements, a dynamic programming module including a hashing function. Neither Syswerda nor Oba teaches or suggests a dynamic programming module employing a hashing function. Recognizing as much, for a teaching or suggestion, the Patent Office substitutes:

Hashing functions are well known in the computer programming art and are used to identify and map values to a location for faster data retrieval. It is also known in the art of programming that a hash function should be fast and it should cause as few collisions as possible so that it does not produce the same value from two

different inputs. It would have been obvious to one of ordinary skill in the art at the time of the invention to use a hashing function to group the schedules in order to more efficiently map schedules of duplicate task lists and/or duplicate scores to the same location for easy deletion.

Office Action mailed 9/22/2005 at paragraph 6. See also, paragraph 31; *Response to Arguments*. But this wholly subjective testimony does nothing to support assertions of obviousness; objective evidence is required. See MPEP 2143.01. Therefore, the rejections of Claims 1 and 27 and their dependents are improper and should be withdrawn.

Thus, it is submitted that, by this amendment, the case is in condition for immediate allowance and such action is respectfully requested. However, if any minor issue remains unresolved, a telephone interview to expedite allowance and issue is welcomed.

Respectfully submitted,



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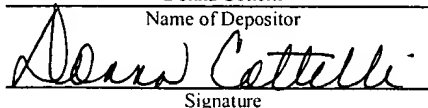
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